

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, December 1, 2000

Division One

A088886 -- In re Felicia F., a Person Coming Under the Juvenile Court Law.

By the Court: The petition for rehearing is denied. Strankman, P.J.

Division Two

A085835 -- The People v. Roberto Escalante Garay.

The convictions and true findings are affirmed. The trial court is directed to prepare an amended abstract of judgment to reflect one five-year commitment for one prior felony conviction on the arson conviction and to forward a copy to the Department of Corrections. As so modified, the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Four

A086395 -- Linda Sue Herman v. Brian J. Miller et al.

The judgment is affirmed. Hanlon, P.J. We Concur: Reardon, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, December 4, 2000

Division One

A092172 -- In re Brittany C., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Robert B.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed.
Strankman, P.J.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Monday, December 4, 2000

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Stein, J, and Marchiano, J.; N. Millner, Deputy Clerk; and security officer L. Cabral.

- A088116 The People,
 v.
 Frank Salvatore Belleci, Jr.
Cause called and argued by Kimberly B. Fitzgerald, counsel for appellant, and Allan Yannow, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A086286 The People,
 v.
 Michael Ray Jones.
Cause called and argued by C. Delaine Renard, counsel for appellant, and John R. Vance, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A089570 Giampiero Mancinelli, et al.,
 v.
 Creola Love.
Cause called and argued by James B. Kraus, counsel for appellant, and Nancy M. Conway, counsel for respondents. Cause ordered submitted.
- A091177 Matthew G. Takamoto,
 v.
 State of California, et al.
Cause called and argued by David A. Prentice, counsel for appellant, via teleconference, and Heidi Salerno, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Monday, December 4, 2000

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Strankman, P.J., Swager, J., and Marchiano, J.; B. Robbins, Deputy Clerk; and CHP Officer T. Tam, Bailiff.

- A088102 Keke Kaste, et al.,
 v.
 Mt. Diablo Unified School District, et al.
Cause called and argued by Dan G. Ryan, counsel for appellants, and James C. Parker, counsel for respondents. Cause ordered submitted.
- A088378 William Obermayer, et al.,
 v.
 Midpeninsula Regional Open Space District.
Cause called and argued by William Obermayer, appellant in pro per, and Susan M. Schectman, counsel for respondent. Cause ordered submitted.
- A089659 Paula Pelot,
 v.
 Patricia Smock, et al..
Cause called and argued by Ana L. Molleda, counsel for appellant, and Taylor M. Bell, counsel for respondents. Cause ordered submitted.
- A084830/
A086230 Thomas A. Cochran, M.D.,
 v.
 The Permanent Medical Group, Inc.
Cause called and argued by E. Elizabeth Summers, counsel for appellant, and Sherri K. McElroy, counsel for respondent. Cause ordered submitted.

Court recessed until Tuesday, December 5, 2000 at 9:00 a.m.

Tuesday, December 4, 2000 (continued)

Division Two

A087672 -- The People v. Thomas L. Dudley.

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on November 2, 2000, modified as follows: (See order.) The modification does not change the judgment and appellant's petition for rehearing is denied. Kline, P.J.

A087820 -- Marguerite Treweek v. The City of Napa.

The judgment is reversed and the matter remanded for further proceedings. Appellant is awarded her costs on appeal. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Certified for Publication.)

Wednesday, December 5, 2000

Division One

A088632 -- The People v. Barry Whitley.

The petition for rehearing is denied. Strankman, P.J.

Division Two

A085930 -- Sandy Ngoc Dung Nguyen v. Cao Thi Anh, et al.

The judgment is affirmed. Respondents are awarded their costs on appeal.
Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Thursday, December 6, 2000

Division One

A091106 -- In re Donovan J., a Person Coming Under the Juvenile Court Law.

People v. Donovan J.

The order adjudicating appellant a continued ward of the court pursuant to Welfare and Institutions Code section 602 and committing him to the California Youth Authority is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, December 6, 2000

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan, J., Parrilli, J., and I. Calanoc, Deputy Clerk.

- A088069 Bonanza Plumbing Inc., et al.,
 v.
 Contractors' State License Board, et al.
Cause called and argued by Thomas Porter, counsel for appellants, and Ronald Casino, counsel for respondents. Cause ordered submitted.
- A088568 Louis A. Gordon,
 v.
 Don Horsley, et al.
Cause called and argued by William Sortor, counsel for appellant, and Carol Woodward, counsel for respondents. Cause ordered submitted.
- A087017 The People,
 v.
 Jose Fuentes.
Justice Walker approached the bench. Justice McGuiness announced that the panel for this case is comprised of Parrilli, J., Walker, J., and McGuiness, PJ. Cause called and argued by Donald Tickle, counsel for appellant, and Deputy Attorney General Dorian Jung, counsel for respondent. Cause ordered submitted. After this case, Justice McGuiness left the bench.
- A087262 The People,
 v.
 Kevin James Scruggs.
Justice Corrigan announced that the panel is now comprised of Walker, J., Parrilli, J. and Corrigan, J. Cause called and argued by Barry Karl, counsel for appellant, and Deputy Attorney General John Deist, counsel for respondent. Cause ordered submitted.
- A089684 Conservatorship of Adelheid Grabisch
 Schoenfeld.
 Bette Epstein,
 v.
 Alfred Grabisch, et al.
Cause called and argued by Patricia Cullison and Janine Simerly, counsel for

appellants; and Kathy Banke, counsel for respondent. Cause ordered submitted.

A088830

Richard Thomas, et al.,

v.

James McDonald.

Cause called and argued by Patrick Lund, counsel for appellants, and James McDonald, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED

Wednesday, December 6, 2000 (continued)

Division Four

A089215 -- Johanne Dictor v. Fritz Companies, Inc.

A090589 -- Johanne Dictor v. Fritz Companies, Inc.

The judgment (case No. A089215) is affirmed. The order denying attorney fees (case No. A090589) is affirmed. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A091615 -- The People v. Terry Dale Smith.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A087675 -- The People v. Jeffrey Williams.

The judgment is modified to state that defendant is entitled to credits of 827 days of actual time served plus 124 local conduct credits for a total of 951 days. The judgment is further modified to state that the enhancement under Penal Code section 667.5, subdivision (b) is stricken. The trial court is directed to correct the clerk's minutes and to submit a corrected copy of the abstract of judgment to the Department of Corrections.

As so modified, the judgment is affirmed. Rivera, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Contra Costa Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 7, 2000 (continued)

Division One

A085440 -- The People v. Arvind Balu.

The judgment of conviction as to count 8, assault with a deadly weapon, count 3, false imprisonment, with personal use of a knife, and count 4, forcible oral copulation, is affirmed; the judgment of conviction as to count 5, rape in concert, and count 6, forcible rape, is reversed. The matter is remanded for retrial on the rape and rape in concert counts and for resentencing. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A090773 -- In re Joseph A.C., a Person Coming Under the Juvenile Court Law.

The orders are affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A089570 -- Giampiero Mancinelli et al. v. Creola Love.

The order denying the motion to strike the cause of action for defamation is reversed and the matter is remanded to the trial court with directions to grant the motion. Costs on appeal are awarded to appellant. Strankman, P.J. We Concur: Stein, J., Marchiano, J. (Not for Publication.)

A091054 -- In re John O., a Person Coming Under the Juvenile Court Law.

The order of commitment is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A089659 -- Paula Pelot v. Patricia Smock et al.

The judgment is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A090024 -- David Ribbs v. Brenda Ribbs-Sandoval.

The order is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Thursday, December 7, 2000 (continued)

A091177 -- Matthew G. Takamoto v. State of California et al.

The judgment is affirmed. Strankman, P.J. We Concur: Stein, J., Marchiano, J. (Not for Publication.)

Division Two

A092901 -- Gatx Capital Corporation, et al. v. The Superior Court of San Francisco; Certain Underwriters at LLOYD's, et al., R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

A093209 -- In re M. Kurbegovich, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Kline, P.J.

A093058 -- Tajie Major, et al. v. The Superior Court of San Francisco County; Raybestos-Manhattan, Inc., et al. R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

Division Three

A090189 -- The People v. Sadika Ali Sufi.

The judgment is affirmed. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Division Four

A092556 -- Christopher B. v. The Superior Court of Sonoma County; Sonoma County Department of Human Services, R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Because the section 366.26 hearing is set for December 13, 2000, our decision is final in this court immediately. (Cal. Rules of Court, rule 24(d).) Woolard, J.* We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 7, 2000 (continued)

A084198 -- The People v. James Otis Belcher.

The judgment is affirmed. Hanlon, P.J. We Concur: Reardon, J.,
Sepulveda, J. (Not for Publication.)

Friday, December 8, 2000

Division One

A092982 -- Estate of Kealoha Thomas Cottert.

By the Court: The motion filed November 15, 2000 to dismiss the appeal in the above-captioned action is granted. Swager, Acting P.J.

A087167 -- Jeffrey H. v. Imai, Tadlock & Keeney et al.

The judgment is reversed as to the invasion of privacy cause of action and otherwise affirmed. The parties shall bear their own costs on appeal. Swager, J. We Concur: Strankman, P.J., Marchiano, J. (Certified for Publication.)

Division Two

A092564 -- In re Isaiah B., a Person Coming Under the Juvenile Court Law.

The petition is denied. Our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A087428, A088253 -- Charles R. Stephens and Sun P. Stephens v. Roberts Tile, Inc.

The judgment is reversed insofar as the court failed to credit the \$20,000 voluntary payment by NBSC to Stephens against appellant's liability to Stephens. The award of expert witness fees is stricken. In all other respects, the judgment is affirmed and the matter is remanded to the trial court for further proceedings in accordance with the views expressed herein. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Friday, December 8, 2000 (continued)

Division Three

**A089684 -- Conservatorship of the Person and Estate of Adelheid
Grabisch Schoenfeld.**

The trial court's November 1, 1999 order approving Crosby's attorney fees below is affirmed. Crosby is awarded costs on appeal. By way of sanction, Grabisch and his attorney are to pay \$30,460, in equal proportion, to the conservatorship estate. Walker, J. We Concur: Corrigan, Acting P.J. (Not for Publication.)

Monday, December 11, 2000

Division One

A088116 -- The People v. Frank Salvatore Belleci, Jr.

The order denying appellant an exclusion hearing is reversed, and the matter is remanded for further proceedings in accordance with the views expressed in this opinion. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A086286 -- The People v. Michael Ray Jones.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A089412 -- Stuart A. Safine v. Ginger H. Mansel et al.

The judgment is affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A091024 -- Richard E. Thomas, et al. v. Howard Williams.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Division Two

A089432 -- Kenneth Asplund et al. v. Sife.

For the foregoing reasons, the judgment entered on the grant of summary judgment for SIFE is affirmed. Costs to respondent. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Monday, December 11, 2000 (continued)

A086136 -- In re Vladimir K., a Person Coming Under the Juvenile Court Law. The People v. Vladimir K.

A086383/A087090 -- In re Jeremy John T., a Person Coming Under the Juvenile Court Law. The People v. Jeremy John T.

A086379 -- In re Kevin Michael C., a Person Coming Under the Juvenile Court Law. The People v. Kevin Michael C.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A092764 -- Mary Keitel v. Caryl Maniscalco.

By the Court: The appeal is dismissed. Costs to Keitel. Kline, P.J.

A089051 -- Warren E. Rupf v. Alexander Almelia Yan.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Certified for Publication.)

Division Three

A088069 -- Bonanza Plumbing, Inc., et al. v. Contractors' State License Board.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A088964 -- The People v. Lageral Webb.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Monday, December 11, 2000 (continued)

Division Five

A090985 -- Paul Hoffman, as Co-executor, etc., et al. v. Kathleen Connell, as Controller, etc.

The order declining to award fees is reversed. The matter is remanded to the trial court so it can determine the amount of fees to which the executors are entitled. Appellants to recover costs on appeal. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A083925 -- The People v. Larry Dean Padilla.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, December 12, 2000

Division One

A090881 -- The People v. Brian Dominic Colley.

The order is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Division Two

A088951 -- Cherie C. Anderson v. Joyce Chisholm et al.

The judgment is affirmed as to defendant Lavash and reversed in part and affirmed in part as to defendants Owens and Chisholm, as indicated in this opinion. The costs award is reversed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A093215 -- State of California v. The Superior Court of Alameda County; Patricia Johnson, R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

Division Four

A090870 -- In re James E., a Person Coming Under the Juvenile Court Law.

The abstract of judgment is ordered corrected to reflect a stay under Penal Code section 654 of the eight-month sentence for receiving stolen property and a corrected abstract shall be sent to the CYA. In all other respects, the judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, December 12, 2000 (continued)

Division Two

A091057, A091248 -- In re Edjuan S., a Person Coming Under the Court Law. The People v. Edjuan S.

The order adjudicating appellant a continued ward of the court pursuant to Welfare and Institutions Code § 602 and committing him to the CYA is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Four

A086367 -- William Steinsmith v. Medical Board of California.

By the Court: The request of appellant MEDICAL BOARD OF CALIFORNIA for publication of this court's November 13, 2000, opinion is granted, and it is hereby ordered that said opinion be published in the Official Reports of the State of California. Hanlon, P.J.

Wednesday, December 13, 2000

Division One

A091036 -- The People v. Derek Larmay Jackson.

Appellant was represented by competent counsel who cross-examined each of the witnesses and adequately argued her client's case to the jury. Substantial evidence supports the jury's verdict. There were no reversible errors during trial, no error in the sentencing proceedings or in the sentence imposed. The court has independently reviewed the record and there are no issues that require further briefing. The judgment is affirmed. Marchiano, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A089989 -- Launce Yen et al. v. Refugio Valley Ranch Master Association et al.

The judgment is reversed. Costs on appeal are awarded to defendant respondents. Marchiano, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Division Two

A087084 -- The People v. Donald Ray Duke.

A088641; A090935; A090495 -- In re Donald Ray Duke, on Habeas Corpus.

The judgment is affirmed. The petition for writ of habeas corpus is denied. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A085058 -- The People v. John A. Crosthwaite.

A089888 -- In re John A. Crosthwaite.

The judgment is affirmed and the petition for writ of habeas corpus is denied. Haerle, J. I concur: Ruvolo, J. (See concurring opinion by Kline, P.J.) (Not for Publication.)

Wednesday, December 13, 2000 (continued)

Division Four

A089965 -- Jerry M. Wagner v. Department of Real Estate.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 14, 2000

Division One

A089044 -- The People v. Justin Blanton.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A091295 -- Roberto Garcia v. Adan Sanchez.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

A093063 -- Dalano Charles Gonzalez v. The Superior Court of Sonoma County; The People of the State of California, R.P.I.

By the Court: Respondent court having complied with the directive of paragraph (a) of the alternative writ issued by this court on November 21, 2000, the petition for writ of mandate is dismissed as moot. Kline, P.J.

A093242 -- William Henry Munton v. The Superior Court of Mendocino County; The People of the State of California, R.P.I.

By the Court: The petition for writ of prohibition/mandate is denied. (Pen. Code section 1510.) Kline, P.J.

A093249 -- Joseph Samuel Neufeld v. The Superior Court of Marin County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

Thursday, December 14, 2000 (continued)

Division Four

A087024 -- The People v. Derrick Cooper.

Order Denying Rehearing and Modifying Opinion. By the Court: Defendant's petition for rehearing is denied. On the court's own motion, the opinion heretofore filed is modified as follows: (See order.) The above modification does not effect any change in the judgment. Hanlon, P.J.

A088114 -- Haroon Ibrahim v. One Meaning, Inc., et al.

We affirm the judgment. Reardon, J. We Concur: Hanlon, P.J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

A087662 -- Sally H. Libbee, et al. v. Ingalls Shipbuilding, Inc.

The judgment is reversed. Parties to bear their own costs. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 15, 2000

Division One

A091635 -- The People v. Shearie Ely.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A085962 -- The People v. Benjamin Gonzales.

By the Court: The petition for rehearing is denied. Strankman, P.J.

Division Two

A087698 -- The People v. Robert Neal Anderson.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Partial Publication.)

A080369 -- City of Martinez et al. v. Workers' Compensation Appeals Board and Rhonda Bonito.

Consistent with and for the reasons discussed above, the Board's decision after reconsideration is affirmed. Applicant shall recover her costs on appeal. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Certified for Partial Publication.)

Division Three

A091059 -- The People v. Arthur M. Dunn.

In sum, we find no arguable issues for review pursuant to *People v. Wende*, *supra*, 25 Cal.3d 436. The judgment is affirmed. McGuinness, P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A084197 -- The People v. Anthony McGinnis.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

Friday, December 15, 2000 (continued)

A090287 -- The People v. John Harland Menan.

In sum, we find no abuse of discretion on the part of the trial court. The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A091813 -- In re Christopher S., a Person Coming Under the Juvenile Court Law.

In sum, we find no arguable issues for review pursuant to *People v. Wende, supra*, 25 Cal.3d 436. The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A092621 -- Spinecare Medical Group, Inc., et al. v. The Superior Court of San Mateo County; Edwin Daum et al., R.P.I.

Let a peremptory writ of mandate issue directing Judge Rosemary Pfeiffer to vacate her September 14, 2000 ruling and to refer both SpineCare's motion for mandatory dismissal and the Daums' second motion to specially set to Judge John Runde for his consideration. The temporary stay of further proceedings in the court below shall remain in effect until this decision becomes final as to this court. The parties shall bear their own costs herein. Parrilli, J. We Concur: Corrigan, Acting P.J., Walker, J. (Not for Publication.)

Division Four

A085050 -- Allen Nunley, Jr. v. San Francisco Housing Authority et al.

The judgment is affirmed. Costs are awarded to defendants Housing Authority, Gresley, Williams and Smith. Nunley's motion for judicial notice is denied. Hanlon, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Friday, December 15, 2000, (continued)

Division Five

A088553 -- The People v. Devon Ray Andrade.

The judgment is affirmed. Richman, J.* We Concur: Jones, P.J., Stevens, J. (Certified for Partial Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, December 18, 2000

Division Two

A091294 -- Diane A. Bellas, Public Defender of Alameda County v. Superior Court of Alameda County; The People, R.P.I.

The judgment of contempt is annulled. Let a peremptory writ of prohibition issue forever restraining respondent court from enforcing the contempt order at issue herein. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication.)

Division Three

A087262 -- The People v. Kevin James Scruggs.

The judgment and sentence imposed shall be modified as follows: (1) The five-year enhancement imposed pursuant to section 12022.7, subdivision (b) is modified to a three-year enhancement under section 12022.7, subdivision (a); and (2) the separate sentence imposed for count 2 is modified to reflect a stay of sentence pursuant to section 654. The judgment and sentence are affirmed as modified. Walker, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

A088830 -- Richard E. Thomas v. James McDonald.

Affirmed. Walker, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Division Four

A090332 -- In re Jasmine F. et al., a Person Coming Under the Juvenile Court Law.

The orders are affirmed. Woolard, J.* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, December 18, 2000 (continued)

A086591 -- The People v. Wanjiko Hardin.

The judgment is affirmed. Woolard, J.* We Concur: Hanlon, P.J.,
Sepulveda, J. (Certified for Partial Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice
pursuant to article VI, section 6 of the California Constitution.

Tuesday, December 19, 2000

Division One

A089524 -- County of Sonoma v. Commission on the State Mandates, Department of Finance et al., R.P.I.; County of Amador et al. Interveners and Respondents.

Order Modifying Opinion and Denying Rehearing. The Court: It is ordered that the opinion filed herein on November 21, 2000 be modified as follows: (See order.) This modification does not effect a change in the judgment. The petition for rehearing is denied. Strankman, P.J. (Certified for Publication.)

A091391 -- In re Malik W., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Division Two

A088667 -- In re Aaron A. et al., a Person Coming Under the Juvenile Court Law.

The orders are reversed and the matter is remanded for reconsideration in light of the views expressed herein. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A088706 -- Aaronson, Dickerson, Cohn & Lanzone. v. Janet Yip; Abbott & Woo, PLC.

The judgment is affirmed. Respondents are awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

2

A089744 -- The People v. Juan Stitt.

For the foregoing reasons, the judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Tuesday, December 19, 2000 (continued)

Division Three

A088587 -- Sharon Gregory et al. v. Teresa Rosso et al.

Order Modifying Opinion and Granting Augmentation of the Record on Appeal. The Court: It is ordered that the opinion filed herein on November 20, 2000, be modified as follows: (See order.) There is no change in the judgment. Appellant's request to augment the record on appeal is granted. McGuinness, P.J. (Not for Publication.)

A088587 -- Sharon Gregory et al. v. Teresa Rosso et al.

The judgment is affirmed. Respondents shall recover their costs on appeal. Walker, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

A086170 -- In re Marriage of Duane and Cecelia Judd.

Affirmed. Walker, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

**A085659 -- Thomas M. Nachbaur et al. v. Palpar, Inc., et al.
Palomar Road Committee et al.**

**A087845 -- Thomas M. Nachbaur et al. v. Palpar, Inc., et al.,
Palomar Road Committee et al.**

The judgment and the order denying recovery of fees are affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

**A089537 -- In re Marriage of Kim McBride and Anthony J. Walker,
Anthony J. Walker v. Kim E. McBride.**

The orders appealed from are affirmed. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A088919 -- Douglas Sutherland et al. v. City of Fort Bragg.

The judgment of the superior court is affirmed. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

Tuesday, December 19, 2000 (continued)

A089741 -- The People v. Trias Carmel Tabrizie.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, December 20, 2000

Division One

A084380 & A086230 -- Thomas A. Cochran v. The Permanente Medical Group, Inc., et al.

The judgment is modified to award costs to Kaiser in the amount of \$114,355.51. As modified, the judgment is affirmed. Each party shall bear its own costs on appeal. Swager, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

A091206 -- In re Richard S., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Strankman, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A084907 -- The People v. James Samuel Kor, Jr.

We affirm. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A092688 -- In re Roy K., a Person Coming Under the Juvenile Court Law.

The petition is denied. Our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A086431 -- Nancy Ryti v. Bdo Seidman et al.

The judgment is affirmed. Respondents are awarded costs. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A090821 -- In re Wesley S., a Person Coming Under the Juvenile Court Law.

The judgment of the trial court is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, December 20,, 2000 (continued)

Division Three

A091672 -- The People v. Juan Manuel Ventura.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

A088625 -- The People v. Shair Sahadat Ali.

The judgment of conviction is affirmed. The order requiring the payment of \$500 as an alternate defender fee is stricken. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089946 -- In re Jeffrey M., a Person Coming Under the Juvenile Court Law.

The order of the juvenile court is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089985 -- Estate of Regis Swetmann, Deceased.

The order determining entitlement to estate distribution is reversed with directions to distribute the estate of Regis Swetmann in accordance with the terms of the will. Cushing shall recover costs on appeal. Richman, J.* We Concur: Jones, P.J., Stevens, J (Certified for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 21, 2000

Division One

A089702 -- Adoption of Pierce C., a Minor.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

**A090947 -- In re the Marriage of Tracey and Ryan White.
Tracey Morgan v. Ryan K. White.**

By the Court: Counsel having so stipulated, the appeal is dismissed, with each party to bear its own costs on appeal. The remittitur is to issue forthwith. Strankman, P.J.

Division Two

A093258 -- Shashana Hernandez v. The Superior Court of Contra Costa County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate/prohibition is denied. Ruvolo, Acting P.J.

A093301 -- Harry J. Williby v. The Superior Court of Alameda County; The People of the State of California, R.P.I.

By the Court: The petition for writ of mandate is denied. Ruvolo, Acting P.J.

A093300 -- In re Hary J. Williby, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Ruvolo, Acting P.J.

Division Three

A090888 -- Naissance Bellot v. Pak 'N Save Foods, Inc., et al.

The trial court's order of dismissal is affirmed. Appellant shall pay respondent's costs on appeal. McGuiness, P.J. We Concur: Corrigan, J., Walker, J. (Not for Publication.)

Thursday, December 21, 2000 (continued)

A087481 -- People v. Steven Burkhart.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A084298 -- Ceridian Corp. v. Franchise Tax Board.

We hold that Revenue and Taxation Code section 24410 is an unconstitutional enactment in that it violates the commerce clause both by allowing a deduction for insurance subsidiary premiums only to corporations domiciled in California, and in limiting the amount of the deduction according to a formula based on the subsidiary's gross receipts, payroll and property within the state. The trial court's judgment invalidating the statute and awarding Ceridian the stipulated amount of tax refund is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Walker, J. (Certified for Publication.)

A084119 -- The People v. Stephanie Jackson.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A090427 -- In re Tevarez L., a Person Coming Under the Juvenile Court Law.

The People v. Tevarez L.

The orders are affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

A090281 -- The People v. Charles Warren Lastrup.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A090518 -- The People v. Quentin James Mitts.

We have independently reviewed the record, and find no issues requiring further briefing, nor any errors. The judgment and sentence are affirmed. Walker, J. We Concur: McGuiness, P.J. Corrigan, J. (Not for Publication.)

Thursday, December 21, 2000 (continued)

A089782 -- The People v. Shannon Sims.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A091164 -- In re Enrique E., a Person Coming Under the Juvenile Court Law.

The People v. Enrique E.

The cause is remanded to the juvenile court for an express declaration as required by Welfare and Institutions Code section 702 and, if necessary, a recalculation of the maximum period of confinement. In all other respects, the dispositional order is affirmed. Hanlon, P.J. We Concur: Reardon, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089002 --The People v. Charles Epps.

By the Court: It is ordered that the opinion filed herein November 22, 2000, be modified as follows: (See order.) The judgment is affirmed. This modification changes the judgment. Appellant's petition for hearing is denied. Hanlon, P.J.

A090737 -- Edward Martin et al. v. David Lee Brandon et al.

We affirm the judgment. Reardon, Acting P.J. We Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A088986 -- City and County of San Francisco v. Teresa Young.

We dismiss the purported appeal. Reardon, J. We Concur: Hanlon, P.J., Sepulveda, J. (Not for Publication.)

Thursday, December 21, 2000 (continued)

A086501 -- The People v. Nicholas Zaika.

The judgment is affirmed. Hanlon, P.J. We Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

A091385 -- In re Quincey D., a Person Coming Under the Juvenile Court Law.

The order is affirmed. Richman, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A088298 -- The People v. Carlos Sebastian Smith.

The conviction of burglary (§ 459) is reversed. In all other respects the judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 22, 2000

Division One

A091093 -- The People v. Frank Roger Phelps.

The judgment is reversed and remanded to the trial court for the limited purpose of resentencing appellant in accordance with our directions. The judgment is otherwise affirmed. Strankman, P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

A092965 -- Charles F. v. The Superior Court for the County of Contra Costa; Contra Costa County Children and Family Services, R.P.I.

The petition is denied on the merits. (Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888 [subsequent challenge by appeal barred]; § 366.26, subd. (l)(1).) The stay previously imposed is hereby lifted, and our decision is final as to this court immediately (rule 24(d)). Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A089873 -- In re Srna G., a Person Coming Under the Juvenile Court Law.

The judgment of the trial court is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A089632 -- Florence Fang v. Stanley J. Bell et al.

The summary judgment granted in favor of respondents is affirmed. Respondents shall recover their costs on appeal. Walker, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Friday, December 22, 2000 (continued)

A090703 -- Sharon Gregory et al. v. Vera Minkner.

The judgment is affirmed. Respondent shall recover her costs on appeal.
Walker, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A090798 -- The People v. Scott William Levine.

Judgment affirmed. Reardon, J. We Concur: Hanlon, P.J., Woolard, J.*
(Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Division Five

A086336 -- In re Joseph F., a Person Coming Under the Juvenile Court Law.

The orders appealed from are affirmed. Kramer, J.* I concur: Stevens, J. See concurring and dissenting opinion of Jones, P. J. (Certified for Partial Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A091145 -- In re Golden Eagle Insurance Company.

The order is affirmed. Richman, J.* We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A087087 -- The People v. Lawrence Allen Short.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 22, 2000 (continued)

A089218 -- As You Sow v. Clifford A. Chanler.

The order is affirmed. Costs on appeal are awarded to plaintiff-respondent As you Sow. Richman, J.* We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, December 26, 2000

Division One

A090585 -- Thomas Mitchell, et al. v. Deere & Company, et al.

By the Court: Appellant having failed to file a brief after notice given under rule 17(a) of the California Rules of Court, the appeal is dismissed. Strankman, P.J.

Division Two

A093326 -- John De Armond v. The Superior Court of San Francisco County; Robert Kane, R.P.I.

By the Court: The petition for writ of mandate is denied. Lambden, Acting P.J.

A093367 -- In re Clayton Collins, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Petitioner should first seek relief, if any, in the Superior Court. Lambden, Acting P.J.

A093339 -- In re Charles Anthony Krah, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus/stay is denied. Kline, P.J.

A093313 -- In re Richard P. Lormer, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Lambden, Acting P.J.

Division Three

A084507 -- Karen Hill v. John L. Phillips.

That portion of the judgment making an award of punitive damages from appellant Phillips to respondent Hill in the amount of \$5,000 is reversed. In all other respects, the judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Tuesday, December 26, 2000 (continued)

A088543 -- The People v. Bobby Lestourgen.

The trial court's finding that appellant suffered a prior conviction for assault on an officer with a deadly weapon, constituting a prior strike and a prior serious felony, is vacated. The matter is remanded to the trial court for resentencing. If the district attorney's office elects to retry the allegation (*Monge v. California* (1998) 524 U.S. 721, 734; *People v. Monge* (1997) 16 Cal.4th 826, 845; *People v. Cortez, supra*, 73 Cal.App.45Haerle, J. at p. 284, fn. 7), it must do so within 60 days of the filing of this court's remittitur. The balance of the judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Walker, J. (Not for Publication.)

A088740 -- The People v. Timothy Nash.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A090614 -- The People v. Richie Wayne Weaver.

The judgment is affirmed. Woolard, J.* We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, December 27, 2000

Division One

A091466 -- Domiciana T. Dioquino v. Mon V. Singh.

Consequently, the appeal is dismissed.

Respondent's request for attorney fees is denied. The record demonstrates that appellant's appeal was not frivolous or taken for delay. Marchiano, J. We Concur: Strankman, P.J., Stein, J. (Not for Publication.)

A088102 -- Keke Kaste, a Minor, etc., et al. v. Mt. Diablo Unified School District et al.

The judgment and the award of costs are affirmed. Marchiano, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

Division Two

A093430 -- Toni Armano v. Richard Vasquez.

By the Court: The petition for writ of supersedeas/stay is denied. Haerle, Acting P.J.

Division Three

A089219 -- The People v. Walter E. Kirby.

The judgment is affirmed. Parrilli, J. We Concur: McGuinness, P.J., Walker, J. (Not for Publication.)

A090274 -- In re Francisco Q., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Dawnel Q.

The orders appealed from are affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Walker, J. (Not for Publication.)

Wednesday, December 27, 2000 (continued)

Division Four

A090058 -- Louis G. Navellier et al. v. Kenneth G. Sletten.

The order is affirmed. Costs are awarded to Navellier and NMI. Woolard, J.* We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 28, 2000

Division One

A090167 -- The People v. Kevin Murray.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A088861 -- The People v. Mariano Tinajero.

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A086607 -- Alicia Dahlin v. El Torito Restaurants, Inc., et al.

We reverse the trial court's order granting the motion for judgment notwithstanding the verdict and reinstate the original judgment on the jury's verdict. We affirm the trial court's order granting Dahlin attorney fees in the amount of \$244,876. Dahlin is awarded costs on appeal. Haerle, Acting P. J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A087660 -- Leonard Billingsley et al. v. Pacific Telesis Group et al.

The order denying class certification is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A086859 -- The People v. George J. Azich.

A091005 -- In re George J. Azich, on Habeas Corpus.

The petition for writ of habeas corpus is denied. The sentence is reversed and remanded to the trial court to permit it to state reasons for striking the great bodily injury enhancement. In all other respects, the judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Thursday, December 28, 2000 (continued)

A086097 -- The People v. Shugar Ray Thornton.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A088284 -- In re Kim J., a Person Coming Under the Juvenile Court Law.

The orders appealed from are affirmed. Corrigan, Acting P. J. We concur: Parrilli, J., Walker, J. (Not for Publication.)

A091047 -- In re Clifford W., a Person Coming Under the Juvenile Court Law.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A087922 -- The People Felton Juan Williams.

The restitution fine imposed by the trial court is vacated and the judgment is ordered modified to reduce the restitution fine imposed on appellant to \$10,000. That portion of the judgment finding that on or between March 31 and April 1, 1998, appellant committed rape as alleged in count eleven of the amended information is reversed, only and insofar as the trial court adjudged the crime to have been committed in the course of a first degree burglary; and the cause is remanded for resentencing on that count. In all other respects, the judgment is affirmed. McGuiness, P. J. I concur: Walker, J. See concurring opinion of Parrilli, J. (Not for Publication.)

Thursday, December 28, 2000 (continued)

Division Four

A090102 -- Friends of Suisun Marsh et al. v. Solano County; Levine-Fricke Restoration Corporation, R.P.I.

The judgment is affirmed. The parties shall bear their respective costs of appeal. Woolard, J.* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089359 -- The People v. Jerome Houston.

Judgment affirmed. Reardon, Acting P. J. We Concur: Kay, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A090140 -- In re Marriage of Zohreh and Thomas Lahey.

On this record, we conclude that the trial court had sufficient evidence to ascertain the parties' current financial circumstances and did not abuse its discretion in awarding attorney fees to Zohreh on the basis of financial need pursuant to Family Code section 2030. Its legal conclusion that the award was "in the nature of support" was correct. Thomas's obligation to pay Zohreh's attorney fees is thus excepted from discharge under section 523(a). This being the case the court had jurisdiction to enter the order, which we affirm. Reardon, Acting P.J. We Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089899 -- The People v. Norman Joseph Lewis, Sr.

We find no error in sentencing. The judgment is affirmed. Sepulveda, J. We concur: Reardon, Acting P. J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 28, 2000 (continued)

A088552 -- Jose Silva et al. v. Union Pacific Railroad Company.

The judgment is reversed and the cause is remanded to the trial court for further proceedings in accordance with part I of this opinion. The parties shall bear there respective costs of appeal. Woolard, J.* We Concur: Hanlon, P.J., Sepulveda, J. (Certified for Partial Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A091434 -- In re Travanti T., a Person Coming Under the Juvenile Court Law.

The orders declaring appellant a ward of the court and placing him on probation with the stated terms and conditions are affirmed. Woolard, J.* We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A089115 -- The People v. Darrell Dean Thomas.

The judgment is affirmed. Woolard, J.* We Concur: Reardon, Acting P.J., Sepulveda, J.

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A082765 -- Tosco Corporation v. General Insurance Company of America.

A084044 -- Tosco Corporation v. Commercial Union Insurance Co.

A086154 -- Tosco Corporation v. Chicago Insurance Co.

The judgments are affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Woolard, J.* (Certified for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, December 28, 2000 (continued)

Division Five

A090130 -- In re Duane J., a Person Coming Under the Juvenile Court Law. The People v. Duane J.

The order appealed from is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A086415 -- The People v. Russell Sturns.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Richman, J.* (Not for Publication.)

*Judge of the Alameda County Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 29, 2000

Division One

A089725 -- The People v. Johnny Ray Crowl.

The judgment is affirmed. Stein, J. We Concur: Strankman, P.J., Swager, J. (Not for Publication.)

A090193 -- The People v. Carl Henderson Spears.

The judgment should be affirmed. Stein, J. We Concur: Strankman, P.J., Marchiano, J. (Not for Publication.)

Division Three

A092838 -- Celeste B. v. The Superior Court of San Francisco County; San Francisco Department of Human Services et al, R.P.I.

The petition for extraordinary relief is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Since the permanency planning hearing is set for January 31, 2001, our decision is immediately final as to this court. (Cal. Rules of Court, rule 24(d).) McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A087880 -- John P. Conley v. Roman Catholic Archbishop of San Francisco et al.

The judgment is reversed with directions to overrule the demurrer. Appellant shall recover his costs on appeal. Hanlon, P.J. We Concur: Sepulveda, J., Woolard, J.* (Certified for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 29, 2000 (continued)

A091237 -- The People v. Kristopher Daniel Coulombe.

The judgment of dismissal is reversed with directions to reinstate the dismissed charges, deny the motion to suppress under section 1538.5, and proceed in a manner consistent with this opinion. Sepulveda, J. We Concur: Reardon, Acting P.J., Woolard, J.*

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A085722 -- Franklin & Franklin et al. v. 7-Eleven Owners for Fair Franchising et al.

The judgment of the Alameda Superior Court enjoining appellants from further prosecuting the San Diego litigation is affirmed. Sepulveda, J. We Concur: Hanlon, P.J., Woolard, J.* (Certified for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A091378 -- Richard Korb v. The Superior Court of San Francisco County; Borton, Petrini & Conron, R.P.I.

The petition for a writ of prohibition is denied; the alternative writ is discharged. Sepulveda, J. We Concur: Hanlon, P.J., Reardon, J. (Not for Publication.)

A090507 -- The People v. Orrin Anthony Patrick.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A084917 -- Najib Rebia v. Tadich Grill et al.

The judgment is reversed. Consistent with our opinion, the superior court is ordered to reinstate that portion of the verdict in favor of appellant on the emotional distress claim. Appellant shall recover his costs on appeal. Hanlon, P.J. We Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, December 29, 2000 (continued)

A088725 -- Luis Saldana v. Old Country Roofing.

The judgment is affirmed. Hanlon, P.J. We Concur: Sepulveda, J., Woolard, J.* (Not for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A084024, A085376, A085713 -- Spanish Speaking Citizens' Foundation, Inc., et al. v. Harry Low, as Commissioner, etc., State Farm Mutual Automobile Insurance Company, Intervenors.

The judgment and the postjudgment orders for attorney fees and costs are reversed, with costs on appeal to the Commissioner and Insurers. Hanlon, P.J. We Concur: Reardon, J., Poché, J.* (Certified for Publication.)

*Retired Associate Justice of the Court of Appeal, First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

A083037, A084281, A083608 -- 7-Eleven Owners for Fair Franchising et al. v. The Southland Corporation et al., Ginger Watson et al., Objectors.

The judgment is affirmed; respondents to recover their costs. Sepulveda, J. We Concur: Hanlon, P.J., Woolard, J.* (Certified for Publication.)

*Judge of the San Francisco Superior Court assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.